

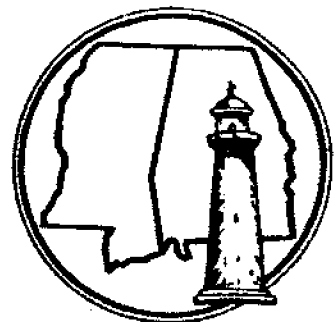
CIRCULATING COPY
Sea Grant Depository

MASGP-81-014-003 C.13

**RECREATIONAL BOAT LEASING ON THE MISSISSIPPI
AND ALABAMA COASTS: A REVIEW OF BOAT OWNERS'
LEGAL RESPONSIBILITIES**

University of Mississippi Law Center

**MISSISSIPPI-ALABAMA
SEA GRANT CONSORTIUM**



MASGP-81-014

RECREATIONAL BOAT LEASING ON THE
MISSISSIPPI AND ALABAMA COASTS:
A REVIEW OF BOAT OWNERS'
LEGAL RESPONSIBILITIES

Printed at the University of Mississippi Law Center
September, 1981

This publication was prepared with financial assistance from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Sea Grant (Grant Number NA81AA-D-00050), the State of Mississippi and the University of Mississippi.

MASGP-81-014

Project No.: R/SL-1

FOREWARD

The authors wish to thank the following people for their kind assistance with this project: Debbie Black, Liz Raymond, Don Heflin and the U.S. Coast Guard Boat Safety, Marine Inspection, and Marine Licensing Offices.

Casey Jarman

Michael T. Gibbs

Sarah Kathryn Farnell

Mississippi-Alabama Sea Grant

Legal Program

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	1
II. REGISTRATION REQUIREMENTS	
A. Federal.....	2
B. Mississippi.....	2
C. Alabama.....	3
III. OPERATOR QUALIFICATIONS	
A. Federal.....	5
B. Mississippi.....	6
C. Alabama.....	7
IV. REPORTING REQUIREMENTS	
A. Federal.....	7
B. Mississippi.....	8
C. Alabama.....	8
V. SAFETY REQUIREMENTS	
A. Federal.....	9
B. Mississippi.....	9
C. Alabama.....	10
VI. INSPECTION AND CERTIFICATION	
A. Federal.....	14
B. Mississippi.....	14
C. Alabama.....	14
VII. LIABILITY OF BOAT OWNER FOR PERSONAL INJURIES OR PROPERTY DAMAGE TO LESSEES AND PASSENGERS	
A. Federal.....	15
B. Mississippi.....	20
C. Alabama.....	21

VIII.	LIABILITY OF OWNERS AND OPERATORS FOR INJURIES TO THIRD PARTIES.....	23
IX.	LIABILITY OF BOAT OWNER FOR INJURIES TO EMPLOYEES	
	A. Federal.....	26
	B. Mississippi.....	26
	C. Alabama.....	26
X.	CONCLUSION.....	28
XI.	FOOTNOTES.....	29
XII.	APPENDIXES	
	A. Boat Registration Forms.....	A-1
	B. Operator's License Requirements.....	B-1
	C. Accident Report Forms.....	C-1

INTRODUCTION

The Mississippi-Alabama coastal area is one of the finest fishing areas in the world. The coastal waters are home to king mackerel, snapper, dolphin, spanish mackerel, grouper, lemon fish, and a dozen or more commonly caught sport fish. Fishing and the fishing-related tourist industry are two of the most important economic activities on the Mississippi-Alabama Gulf Coast.

People travel for many miles to enjoy fishing on the Gulf Coast and to take advantage of the services offered by the small businesses which cater to their needs. There are charterboats specializing in bottom fishing or trolling in the coastal and offshore waters. Fishing camps rent small skiffs and other small boats for use in the estuaries, harbors and coastal rivers and creeks. Enterprising entrepreneurs rent small sailboats and jet skis right on the beaches.

These small businesses are subject to a long list of federal and state rules and regulations designed to protect the health and safety of all users of the coastal waters. Failure to comply with the rules can expose the business owners/operators to substantial fines, penalties and civil liabilities. It is important for these businesses to survive, important to the local economy and to the individuals involved. Survival may depend on whether the businesses meet their legal obligations.

The purpose of this publication is to inform everyone involved in these businesses about the importance of maintaining safe boats and equipment and complying with all applicable rules and regulations. This publication is directed primarily to charterboat owners and operators and owners and operators of small boat leasing services, but the information herein applies to all operators of vessels engaged in the carrying of six or fewer passengers.

In reviewing this material, it is important to remember that the boat owner/operator is ultimately responsible for the boat and all persons on board. Prudence and common sense will go a long way toward preventing costly accidents by ensuring that the boat and operator are in condition to undertake the trip safely.

REGISTRATION REQUIREMENTS

Federal

The federal Boat Safety Act of 1971 requires registration of all boats using the navigable waters of the United States.¹ The Coast Guard is responsible for administering the registration program. A state may, with approval of the Coast Guard, be delegated the responsibility of registering motorboats used in the state's territorial waters as long as the state agrees to follow Coast Guard regulations. Mississippi and Alabama have essentially incorporated the federal registration requirements. However, penalties for failure to register a boat under federal law are different from state law. Failure to register a boat under the Boat Safety Act can result in the imposition of civil penalties of not more than \$500/violation.² If a violation occurs in waters under both state and federal jurisdiction, federal penalties may be added to the penalties imposed under state law.

Mississippi

Boat owners in Mississippi are required to register their boats with the Boat Registration Department of the Mississippi Department of Wildlife Conservation in Jackson. The registration requirements are codified in the Mississippi Boating Law of 1960.³ The law establishes a numbering system for motorboats used in the territorial waters of Mississippi.⁴ Within ten days from acquiring a motorboat, the owner is required to apply for a certificate of number known also as a registration card.⁵ (See Appendix A for a sample Mississippi boat registration application.) Once a boat is issued a number, it retains that number until the registration is cancelled or until the boat is destroyed or abandoned.⁶ A cancellation occurs when the owner fails to renew the registration within one year from the expiration date. Therefore, if a boat owner failed to renew the registration within one year from the expiration date his boat would be assigned a new number upon re-registration. When a boat is transferred to a new owner, that owner has ten days in which to apply for a transfer of number.⁷ A small fee is charged for obtaining, renewing and transferring a certificate of number.

Special provision is made in the Mississippi statute for the registration of livery boats when an owner has more than one boat for hire.⁸ A separate number and certificate of number is issued for each

boat in consecutive order. The certificate must be marked "Livery" and must be kept in the boat. The certificate of number is generally valid for two years, but all livery certificates expire at midnight of June 30 of each biennium beginning June 30, 1971, after which it must be renewed.⁹ For example, if a boat were registered in November of 1980, it would expire on June 30, 1981. In the event that a certificate of number is lost or destroyed, the owner must notify the Boat Registration Department, P.O. Box 451, Mississippi Department of Wildlife Conservation, Jackson, Mississippi 39205, in writing within fifteen days, at which time a new number and certificate of number will be issued.¹⁰

It is a misdemeanor for any person to violate any of the provisions of the Mississippi Boating Law of 1960. Consequently, if a motorboat owner fails to register any or all of his boats or, if registered, fails to keep the registration in the boat, both the owner and operator of the boat are subject to a fine of between \$10 and \$100. Any person who alters a boat registration number or certificate of number can be fined up to \$100 and/or be jailed up to thirty days.¹¹

Alabama

Alabama law provides that "no person shall operate or give permission for the operation of any vessel," unless it is registered and numbered, with the number displayed on each side of the bow.¹² The Alabama Department of Conservation and Natural Resources is nominally responsible for issuing certificates of registration and boat numbers. However, the Department may authorize probate judges or licensing commissioners to be given a block of certificates and numbers to issue in each county.¹³ This is the practice usually followed.

To obtain a certificate and number, a boat owner must file an application with either the Department of Conservation and Natural Resources or the local probate judge or license commissioner. The certificate must be obtained yearly, not later than November 15 of each year. The certificate contains the number, description, and name and address of the owner for each vessel. (See Appendix A for sample Alabama Boat Registration Certificate.)

Alabama's Water Safety Regulations (available from the Department of Conservation and Natural Resources) establish more specific provisions for

this process. Generally a person seeking to rent or lease a boat must specify whether the propulsion is inboard, outboard, sail or combination, and what type fuel, if any, is required. Applications made by a person who intends to rent or lease the vessel without its propulsion machinery may omit this information. Owners of livery boats will receive certificates plainly marked "Livery Boat".

Any vessel which is rented or leased must have on board a copy of the lease or rental agreement, signed by the owner or his agent and the lessee. This agreement must contain the vessel number, the period of time for which the vessel is leased or rented, and the number of persons on board at time of departure from livery. The certificate of number for vessels less than 26 feet in length, leased or rented to another for non-commercial use of less than 24 hours, may be retained on shore by the owner or his representative at the place from which the vessel departs or at the place where the vessel will return. Certificates of the lease or rental agreement must be presented to any federal, state, or local law enforcement officer for inspection on request.

It is a violation of water safety regulations to operate or permit a vessel to be operated which does not have the proper registration number and current-year decals on each side of the bow. Failure to comply may result in a fine of \$10 - \$100, plus cost, for each violation.¹⁴ Failure to re-register a vessel for two consecutive years invalidates a vessel's certificate of number, and that vessel must be issued a new certificate of number when registered.

OPERATOR QUALIFICATIONS & REPORTING REQUIREMENTS

Operator Qualifications - Federal

The Boat Safety Act of 1971 requires that boats for hire be in charge of a licensed person. There are two types of licenses that may be applicable to charter boat operators: the motorboat operator carrying six or less passengers and the ocean going operator.

A motorboat operator's license is required when the motorboat is carrying six or less passengers for hire and the motorboat is under sixty-five feet in length or, if over sixty-five feet, weights less than fifteen gross tons.¹⁵ To be eligible for this license, an applicant must meet the following requirements: (1) be 18 years of age or older; (2) present a letter of service documenting 360 days experience in the operation of motorboats; (3) be able to pass a physical exam; and (4) be prepared to take a written or oral exam covering, among other things, the rules of the road, first aid, and Coast Guard rules and regulations for motorboats on the applicable waters. (See Appendix B for a more detailed description of these requirements.) This license is valid for the specific routes described on the license, and on lakes, bays, sounds, and rivers. It is valid for one hundred miles offshore in the Gulf of Mexico between St. Mark, Florida and Brownsville, Texas.¹⁶

In the absence of the above license, a person operating a charterboat of less than one hundred tons within one hundred miles from shore must obtain an ocean operator's license.¹⁷ As with the motorboat operator's license, there are certain minimum qualifications that must be met in order to be eligible for this license. Briefly, these are: (1) be 19 years of age or older; (2) show proof of U. S. citizenship; (3) show documentation of two years or more as a motorboat operator; (4) be able to pass a physical exam; (5) be prepared to take an exam covering such areas as the rules of the road governing the applicable waters, first aid, pollution prevention, lifesaving equipment, etc.; and (6) submit a fingerprint card. (See Appendix B for a more detailed description of these requirements.) The number of passengers that can be carried, the tonnage of the boat, and the approved route are determined by the officer in charge of the Marine Inspection Office and are recorded on the license. A charterboat operator must carry the appropriate license with him whenever he is

operating the boat and is required to show it when requested to do so by the Coast Guard.¹⁸

Mississippi and Alabama charterboat operators can obtain the appropriate operator's license from the Coast Guard offices in Mobile, Alabama or New Orleans, Louisiana. These are:

USCG Marine Licensing Office
First National Bank Building
18th Floor
Mobile, Alabama 36652

USCG Marine Inspection Office
F. Edward Hebert Building
600 South Street
New Orleans, Louisiana 70130

A charterboat operator who does not have the required license is subject to both civil and criminal liability. Violation of the licensing requirements under the Boat Safety Act can result in civil penalties of not more than \$500/violation being imposed.¹⁹

There are no federal licensing requirements applicable to small boats used for recreational purposes. Therefore, a lessor renting skiffs to customers who operate the boats themselves does not need to verify that the customers have licenses to operate motorboats.

Operator Qualifications - Mississippi

Mississippi law regarding motorboat operator's licenses is the same as federal law. Section 59-21-81 of the Mississippi Boating Law incorporates by reference all of the federal regulations regarding the operation of motorboats. A charterboat operator does not have to obtain any Mississippi licenses in addition to the required federal licenses. However, a charterboat operator can be cited by Mississippi marine enforcement authorities for failure to possess and carry the appropriate federal license. If cited, the operator is subject to a fine of between \$10 and \$100.²⁰

Section 59-21-85 of the Mississippi Boating Law prohibits any person under the age of twelve from operating a motorboat unless accompanied by a parent, guardian or other person over seventeen years of age who is capable of operating the boat. It would be wise to be especially careful when leasing boats if children under twelve will be on board. The lessee should be made aware of this law whenever a child under twelve is in the boating party.

Operator Qualifications - Alabama

Under Alabama law, no owner or operator of a mechanically propelled vessel shall allow a child under twelve years of age to operate the vessel. However, if the child is with a person twelve years or older who is qualified and capable of handling the vessel, the younger person may operate the vessel. Also, children under twelve who have a certificate issued by the Department of Conservation proving that they have successfully completed an approved course of water safety and boating instruction may operate a vessel alone.

These are the only qualifications required for boating operators in Alabama.

Reporting Requirements - Federal

Whenever a person dies or disappears from a motorboat operating on federal waters, the operator must, by the quickest means available, notify the nearest Coast Guard office of the following: (1) the date, time and location of the occurrence; (2) the name of each person who died or disappeared; (3) the number and name of the vessel; and (4) the names and addresses of the boat owner and operator. If the operator of the vessel is unable to give the above notice, it is the responsibility of each person on board to notify the Coast Guard or to determine that the notice was given. In addition to the notification requirement, the operator must submit a casualty report to the Coast Guard office within 48 hours of the occurrence if a person disappeared or dies within 24 hours of the occurrence. If the operator of the vessel is unable to submit this report, the boat owner is required to do so. A casualty or accident report is also required when a person is injured and requires medical treatment beyond first aid, and/or when damage to the vessel or other property totals more than \$200, or when there is a complete loss of a vessel. This report must be made by the motorboat operator within 48 hours of the occurrence if personal injuries occur and within ten days if vessel or other property damage occurs. The boat owner must fulfill this requirement if the boat operator is unable to do so. Each report must be in writing, dated, and signed by the person who prepared it.²¹ (See Appendix C for the information required in a casualty or accident report.)

Persons who fail to report casualties and accidents when required to do so may be fined up to \$500 for each violation.²²

Reporting Requirements - Mississippi

Mississippi law also imposes a duty upon the operator of an undocumented boat used for pleasure or recreational purposes to report certain accidents occurring in state waters. Any time a boat is involved in an accident resulting in loss of life, injuries that cause a person to be incapacitated for over 24 hours, and/or actual physical damage to property in excess of \$100, an accident report must be made.²³ If the accident resulted in a death, the accident report must be filed within 48 hours. Every other report must be completed within 5 days of the accident.²⁴ These reports are submitted to the Boat Registration Department of the Mississippi Department of Wildlife Conservation in Jackson. (See Appendix C for a sample accident report.) Forms may be acquired at various county offices, boat companies, marinas, fishing camps, and from law enforcement officers. Failure to report a boating accident is punishable by a fine of between \$10 and \$100.²⁵

Reporting Requirements - Alabama

Any operator involved in a boating collision, accident or other casualty on Alabama waters must give his name, address, and identification of his vessel in writing to any person injured and also to the owner of any property damaged. In addition, within 10 days of the accident a written report must be filed with the Department of Conservation and Natural Resources, Department of Water Safety, if the boating accident results in the following: (1) loss of life or disappearance of any person; (2) injury causing any person to remain incapacitated for over 72 hours; and/or (3) actual damage to any vessel or to any other property in excess of \$50.²⁶

The Code of Alabama, § 33-5-25 (1975) provides that accident reports are confidential. Their existence may be disclosed along with the identity of persons involved. However, the contents of the reports themselves are not to be used as evidence in any civil or criminal trial.

SAFETY REQUIREMENTS

Federal

All motorboats must be equipped with certain Coast Guard approved safety equipment. Safety equipment requirements are mandated by the Motorboat Act of 1940 and the Boat Safety Act of 1971.²⁷ Boats are divided into four classes based upon the length of the boat as measured from end to end over the deck, excluding the sheer: Class A - less than sixteen feet; Class 1 - sixteen to less than twenty-six feet; Class 2 - twenty-six to less than forty feet; and Class 3 - forty to sixty-five feet. Within each class, certain minimum safety equipment is required. Safety equipment falls into the following categories: life preservers or personal flotation devices (PFD), fire extinguishers, back-fire flame arrestors, bells and whistles, ventilation, visual distress signals (VDS) and lights. (See Charts A & B on pp.11-13, adapted with permission from Mississippi Basic Better Boating, published by the Mississippi Boat and Water Safety Commission.)²⁸

PFD requirements vary slightly for commercial motorboats (those carrying passengers for hire). Commercial vessels of any length carrying 6 or fewer passengers for hire must have at least one readily accessible Type I PFD of a suitable size for each person on board. All commercial boats longer than forty feet, regardless of the number of passengers for hire, must also have at least one readily accessible Type I PFD of a suitable size for each person on board. And, if the commercial boat is twenty-six feet or longer (Class 2 or 3), there must be on board at least one Type IV ring buoy that is immediately available.

Violations of these safety regulations may result in the imposition of criminal and/or civil statutory penalties. Under the Motorboat Act, both the owner and the operator of a livery boat are subject to a fine of \$200 if found to be in violation of the PFD or fire extinguisher requirements.²⁹ For any other safety violations, a fine of \$100 may be imposed. Civil penalties of not more than \$500/violation may be imposed for safety violations.³⁰

Mississippi

The Mississippi Boating Law incorporates by reference all applicable Coast Guard safety regulations.³¹ Any person who fails to comply with

the safety requirements can be fined up to \$100 and/or jailed up to thirty days.³² Both a lessee and the owner can be cited when the required safety equipment is not onboard the vessel.

Alabama

The Alabama safety equipment requirements are essentially the same as those appearing in Charts A & B. Anyone who fails to adhere to these requirements may be convicted of a misdemeanor, with a fine of \$10 - \$100 for each violation.³³

EQUIPMENT	CLASS A (less than 16 feet)	CLASS 1 (16 feet to less than 26 feet)	CLASS 2 (26 feet to less than 40 feet)	CLASS 3 (40 feet to not more than 65 feet)
BACK-FIRE FLAME ARRESTOR	One approved device on each carburetor of all gasoline engines installed after April 25, 1940 except outboard motors.			
VENTILATION	At least two ventilator ducts fitted with cowls or their equivalent for the purpose of properly and efficiently ventilating the bilges of every engine and fuel-tank compartment of boats constructed or decked over after April 25, 1940, using gasoline as fuel or other fuels having a flash-point of 110° or less.			
PERSONAL FLotation DEVICES (PTD)	One approved Type I, II, III or IV device, for each person on board or being towed on water skis, etc.	One approved Type I, II or III device aboard for each person and, in addition, one throwable Type IV device.		
BELL, WHISTLE	All boats must be able to produce navigational signals under rules of the road.	Whistle-one hand, mouth, or power operated, audible at least $\frac{1}{2}$ mile.	Bell-one, which when struck, produces a clear, bell-like tone of full round characteristics. One hand or power operated, audible at least $\frac{1}{2}$ mile.	One power operated, audible at least $\frac{1}{2}$ mile.
FIRE EXTINGUISHER, PORTABLE	At least one B-1 type approved hand portable fire extinguisher. (Not required on outboard motorboat less than 26 feet in length and not carrying passengers for hire if the construction of such motorboats will not permit the entrainment of explosive or flammable gases or vapors.)			
When NO fixed fire extinguishing system is installed in machinery space(s).	None.	None.	At least one B-1 type approved portable fire extinguisher.	At least two B-1 type approved portable fire extinguishers; OR at least one B-1 type approved portable fire extinguisher.
When fixed fire extinguishing system is installed in machinery space(s).	None.	None.	At least one B-1 type approved portable fire extinguisher.	At least two B-1 type approved portable fire extinguishers; OR at least one B-1 type approved portable fire extinguisher.

CHART A

COAST GUARD REQUIREMENTS/MINIMUM REQUIRED EQUIPMENT

EQUIPMENT	CLASS A (less than 16 feet)	CLASS 1 (16 feet to less than 26 feet)	CLASS 2 (26 feet to less than 40 feet)	CLASS 3 (40 feet to not more than 65 feet)
VISUAL DISTRESS SIGNALS	Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, must be carried. See Table 175.130 below for list to select from and number required. Until July 1, 1982, the following will also meet the VDS requirement so long as they remain in good and serviceable condition: (1) hand-held or pistol projected aerial red flares for "day and night" requirement; (2) pyrotechnic hand-held or floating orange smoke for "day only" requirement; and (3) signal pistols for use with cartridges.			
Not applicable to manually propelled boat				

TABLE 175.130

Device Description	Accepted for Use	Number required to be carried
Shots fired on device:		
175.021..... Floating Orange Smoke Distress Signals.....	Day only.....	3
175.022..... Pistol-Projected Parachute Red Flare Distress Signals.....	Day and Night.....	3
175.023..... Hand-Held Rocket-Propelled Fireworks Red Flare Distress.....	Day and Night.....	3
Signals:		
175.024..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.025..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.026..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.027..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.028..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.029..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.030..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.031..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.032..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.033..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.034..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.035..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.036..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.037..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.038..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.039..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.040..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.041..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.042..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.043..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.044..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.045..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.046..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.047..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.048..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.049..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.050..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.051..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.052..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.053..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.054..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.055..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.056..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.057..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.058..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.059..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.060..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.061..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.062..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.063..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.064..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.065..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.066..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.067..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.068..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.069..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.070..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.071..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.072..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.073..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.074..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.075..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.076..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.077..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.078..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.079..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.080..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.081..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.082..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.083..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.084..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.085..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.086..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.087..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.088..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.089..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.090..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.091..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.092..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.093..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.094..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.095..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.096..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.097..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.098..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.099..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3
175.100..... Hand-Held Orange Smoke Distress Signals.....	Day only.....	3

These signals require use in combination with a suitable launching device approved under CFR 160.026. Note that they may be either self-contained or pistol launched, and either motor or parachute assisted type. Use of these signals may require use in combination with a suitable launching device approved under CFR 160.026.

PFD TYPE	DESCRIPTION
I	LIFE PRESERVER. Over 20 Survives buoyancy. Turns upon release. Buoyancy from compressed air. Buoyancy is visible or readily discernible. Position acceptable for all size boats.
II	BUOYANT VEST. At least 15.5 Buoyancy. Turns upon release. Buoyancy from compressed air. Buoyancy is visible or readily discernible. Position acceptable for all size boats.
III	MARINE BUOYANT DEVICE Not designed to turn upon release. Buoyancy from compressed air. Buoyancy is visible or readily discernible. Position acceptable for all size boats.
IV	THROWABLE DEVICE. At least 16.5 Buoyancy. Turns upon release. Buoyancy from compressed air. Buoyancy is visible or readily discernible. Position acceptable for all size boats.

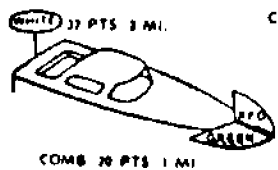
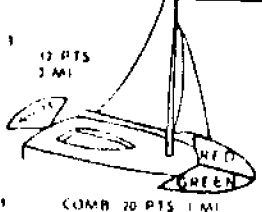
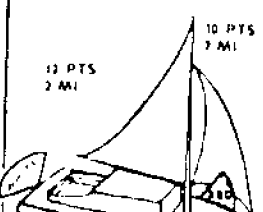
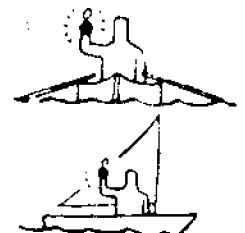
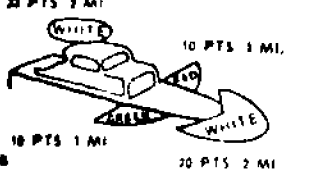
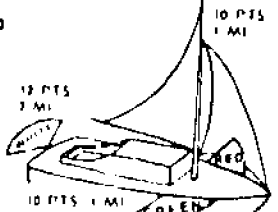
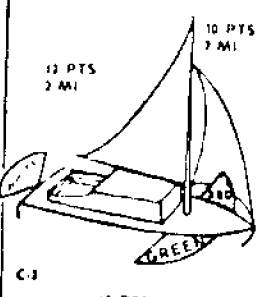
LIGHTS

Any boat used between sunset and sunrise must show the lights required by law. Light placement and requirements vary with the size and class of boats. There are two types of lighting requirements. These are "Inland Rules" and "International Rules". The Inland apply only to inland waters, western rivers and the Great Lakes. The International may be used on inland waters and are required on the high seas. The drawing shows how to tell if lights are correctly displayed.

Required lights are listed below. Check state regulations and fully understand the lighting requirements before getting underway.

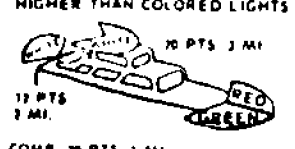
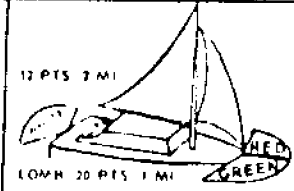
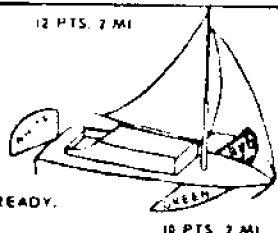
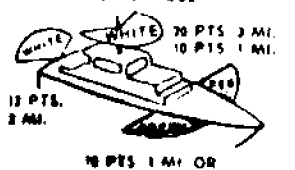
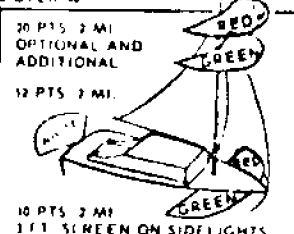
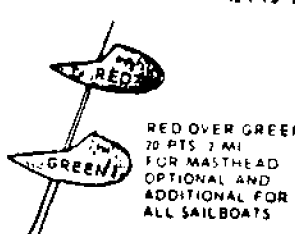
LIGHTS REQUIRED FOR ALL PLEASURE CRAFT NOT OVER 65-FT LONG

REQUIREMENTS OF MOTORBOAT ACT (1900) ON WATERS SUBJECT TO INLAND, WESTERN RIVERS AND GREAT LAKES RULES

POWER ALONE OR SAIL AND POWER	MOTORBOAT UNDER SAIL ALONE	SAILBOATS	ROWBOATS AND SMALL SAILBOATS
<p>UNDER 26' IN LENGTH</p>  <p>CLASSES A & B</p>	 <p>C1</p>	 <p>C2</p>	
<p>26' TO 40' IN LENGTH</p>  <p>B</p>	 <p>C2</p>	 <p>C3</p>	<p>Boats propelled by oars or paddles and small sail craft such as board boats and sailing dinks shall have ready at hand a lantern or electric torch showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.</p>

INTERNATIONAL RULES

REQUIRED OF HIGH SEAS. MAY BE USED BY MOTORBOATS ON ANY WATERS

POWER ALONE OR SAIL AND POWER	MOTORBOATS UNDER SAIL ALONE	OR	SAILBOATS
<p>CARRIED AT LEAST 1 FT HIGHER THAN COLORED LIGHTS</p>  <p>COMB 20 PTS 1 MI OR 10 PTS SEPARATE SIDELIGHTS</p>	<p>Rule 1 (c) (iv) Int. Rules provides that every power driven vessel which is under sail and not under power is to be considered a sailing vessel. All vessels this category to show lights required for sail boats</p>  <p>LOW 20 PTS 1 MI</p>	OR	 <p>12 PTS 7 MI</p>
<p>LOCATED AT LEAST 9 FT ABOVE GUNNELS</p>  <p>12 PTS 3 MI</p>	<p>See above note regarding motorboats under sail alone being considered sailboats under International Rules.</p>  <p>20 PTS 2 MI OPTIONAL AND ADDITIONAL 12 PTS 3 MI 10 PTS 3 MI 1 FT SCREEN ON SIDELIGHTS</p>		 <p>RED OVER GREEN 20 PTS 2 MI FOR MASTHEAD OPTIONAL AND ADDITIONAL FOR ALL SAILBOATS</p>

INSPECTION AND CERTIFICATION

Federal

Coast Guard regulations require inspection and certification of all motorboats carrying six or more passengers for hire.³⁴ All other boats are inspected at the owner's request. A certification of inspection can be obtained and renewed from the nearest Coast Guard Marine Inspection office. (See page 6 for addresses.) An inspection certificate is valid for a three year period unless renewed, revoked, suspended or surrendered.³⁵ Within this three year period the owner must return the boat for at least two more inspections to keep the certificate current. The certificate includes the following information: (1) period of validity, (2) designated routes of operation, and (3) the maximum number of passengers allowed. A certificate of inspection must be kept on board the vessel. The motorboat's structure, machinery and equipment are included in the inspection. (The specific requirements can be found in the Code of Federal Regulations, Title 46, Section 176.05-5.) Failure to have a boat inspected or to be in compliance with the terms of a certificate subjects the owner or the operator to a penalty of not more than \$1,000.³⁶

Mississippi

Mississippi does not impose any state inspection and certification requirements. Section 59-21-81 of the Mississippi Boating Law requires motorboats on Mississippi coastal waters to conform to Coast Guard inspection and certification regulations. Failure to do so is punishable by a fine of \$10 - \$100.³⁷

Alabama

Agents of the Department of Conservation and Natural Resources have the right to "inspect at any reasonable time all boats owned or controlled by a livery operator for the purpose of ascertaining their seaworthiness and safety."³⁸ If a livery boat is found unsafe or unseaworthy, the Department notifies the owner in writing, and the boat may not be used. The boat may be rented again only after the necessary repairs are made and another inspection is completed.

LIABILITY OF BOAT OWNERS FOR PERSONAL INJURIES
OR PROPERTY DAMAGE TO LESSEES AND PASSENGERS

Federal

A boat owner may be liable for physical damage and/or injuries sustained by lessees, passengers or other persons in a boating accident ("lessee" refers to the person who rents or charters the boat from the owner or his agent). The extent of the owner's liability will depend upon the nature of the injuries suffered and who was operating the boat at the time of the accident: the boat owner, an operator paid by the boat owner or the lessee and/or a passenger.

Recovery for injuries sustained in motorboat accidents occurring on either federal or state waters is based upon the general principles of negligence law. For one person to be liable to another for negligence, he or she must owe a legal duty of care to the other person. Liability arises when there is a breach of the duty of care "proximately causing" damage or injuries to the other person or his property. This concept of proximate cause has generated a substantial amount of litigation and legal commentaries. For purposes of this analysis, it means that there must be a causal relationship between the breach of duty and the damages sustained.³⁹

If an accident occurs on waters under federal jurisdiction, federal maritime (admiralty) law will apply. Under federal law, a boat owner owes a duty of "reasonable care under the circumstances" to all those who are on board with the owner's consent.⁴⁰ The owner does not have to specifically consent to each person's presence on the boat. The duty exists if the person is one of a class of people that the owner regularly permits on the boat.⁴¹ Once an owner breaches his duty of reasonable care, he is liable for damages resulting from the breach.

It has been further held under admiralty law that violation of a statute designed to prevent collisions creates a presumption that a duty of care has been breached.⁴² In such a case, the boat owner has the legal burden of showing not merely that the violation of the statute either might not or probably was not a cause of the damages, but that it could not have been.⁴³ This principle, known as the Pennsylvania Rule, is important because the plaintiff (person suing) usually must prove a causal

relationship in order to recover damages. Under the Pennsylvania Rule, once the plaintiff establishes that the owner violated the statute, the burden shifts to the owner to prove that the violation could not have been one of the causes of the casualty. Operating a boat at night without required running lights is one example of a violation of a statute designed to prevent collisions.

A boat owner's liability for negligent acts may depend upon who was operating the boat when the accident occurred. Assume that the following situations occurred in federal waters (these are simplified examples; rarely will an actual situation be quite as clear cut).

(1) Boat owner operates his boat with passengers on board. He checks the weather report and finds that storm warnings have been issued for the area. He fails to heed the warnings and continues the trip. Shortly thereafter, the boat capsizes in rough water. One passenger drowns, two suffer minor injuries, and all lose the personal property they had on board. In this situation, the boat owner owed a duty of reasonable care under the circumstances and should have headed the boat to the dock as soon as he knew of the storm warnings. His failure to do so caused the boat to capsize in the storm. The boat owner could be liable for all of the personal injuries and property damage suffered by the passengers.

(2) Boat owner operates his boat with passengers on board. He strongly suggests that those passengers who don't swim well should wear their assigned life preservers. No one puts on a life preserver. During the trip, through no fault of the boat owner/operator, the boat is rammed by another boat, throwing the owner and passengers into the waters. One passenger drowns because he doesn't know how to swim. In this instance, the boat owner did not breach his duty of reasonable care as he adequately warned his passengers to wear life preservers. He should not be liable for the injuries.

(3) Boat owner operates his boat with passengers on board. This is a night trip and the boat is not equipped with the required stern light. Another boat runs into the rear of the boat, causing an explosion and seriously injuring everyone on board. Under these facts, the Pennsylvania Rule should apply. Since the boat owner violated a statute designed to prevent collisions (carrying the required lights), once the injured parties show that the statute was violated, the boat owner will have to prove that the absence of the required back light could not have been one of the causes of the collision.

In the next two examples the lessee or one of the passengers was operating the boat at the time of the accident.

(1) Lessee is operating the boat with passengers on board. All required Coast Guard approved safety equipment has been provided and is on the boat. Lessee/operator fails to pay attention to where he is going and rams a buoy, causing the boat to capsize, injuring the lessee and one passenger. The boat owner should not be liable since he did not breach

any duty. The lessee caused the accident by operating the boat in an unsafe manner and should be liable for personal injuries and property damage suffered by the passengers.

(2) Lessee is operating the boat with passengers on board. While on the water, the boat explodes due to a leak in the gas line. All aboard are injured by the explosion. Since the boat owner breached his duty to lease a boat in a safe and seaworthy condition, he may be liable for the injuries caused by the explosion, even if he was not aware that there was a leak in the gas line.

The next set of examples will illustrate the potential liability of a boat owner when the operator of the boat at the time of the accident is the owner's employee. Under the legal doctrine of "respondeat superior", when an employee's actions proximately cause damage or injuries to other persons, the employer may be liable for the damages and/or injuries if the employee's actions were committed within the scope of his employment. For liability to attach, the following conditions must exist: (1) the employee must be responsible for the injury or damage; (2) at the time that the injury or damage occurred, the employee must have been doing an act related to his employment. The following examples demonstrate this concept.

(1) The operator of a charterboat with passengers is employed by the boat owner. While in a channel, the operator negligently steers off his course, colliding with another boat, resulting in injuries to two of the passengers on board. The boat owner may be liable for the injuries.

(2) Employee/operator takes some friends for a ride in his employer's boat without the consent or knowledge of the owner and, while driving recklessly, capsizes the boat. One of the passengers is injured. The boat owner will probably not be liable for the injuries since the employee's actions were not incident to his employment responsibilities.

A boat operator can only be liable for his own negligence and not for the negligence of the owner. The owner, however, may be liable for the employee's negligence.

Under some circumstances, a boat owner/operator can either reduce or escape liability for negligent actions. The law provides certain defenses that mitigate the amount of damages for which the owner/operator may be responsible. Under the "comparative fault" doctrine, damages are apportioned in accordance with the relative fault of the parties concerned. If an injury was caused by the negligence of both the owner/operator and the person injured, the owner/operator will be responsible for only the portion of damages caused by his negligence. For example, if a jury

determines that the owner/operator was 55% at fault and the injured party 45% at fault, the owner/operator will be liable for 55% of the resulting damages.⁴⁴

Another defense is known as the "last clear chance" doctrine. Originally, this doctrine provided that if one party had the last clear chance to prevent the accident by exercising ordinary care and failed to do so, he would carry the full liability, despite the negligence of the other party.⁴⁵ However, since the emergence of the comparative fault doctrine and the Pennsylvania Rule, the originally negligent party will probably no longer be able to completely escape liability. For example, if the operator of a charterboat, travelling on the proper side of a channel, observes an oncoming boat veering off its course towards the charterboat, the operator must attempt to avoid the collision. If he doesn't and a collision occurs, he may be liable for some of the resulting damages, even though the other boat was negligent in moving off its proper course.⁴⁶

Another defense available to negligent owner/operators is provided by a statute known as the Limitation of Liability Act. It permits the owner of a vessel to limit his liability to the value of his interest in the vessel whenever the losses occur "without the privity or knowledge of such owner."⁴⁷ The owner must prove that he did not participate in or have knowledge of the fault or negligence which caused or contributed to the loss or injury.⁴⁸ This defense is usually applicable when an employee has been negligent or when a hidden defect on the vessel causes the accident. The owner may still be liable for his employee's actions or for the defect in the boat, but his liability is limited to the amount of his interest in the vessel.

Some boat lessors attempt to limit their liability through clauses in their boat rental agreements. These clauses typically state that the owner is not responsible for any injuries or damages that occur during the course of the boat rental - a "ride at your own risk" type agreement. Some lessors have signs posted at the dock or on the boats stating that lessees and passengers assume the risk of any accidents. These signed agreements and posted notices, even if carefully read and acknowledged by the lessee, may not shield the boat owner/lessor from liability, particularly when the lessee could not have discovered the defect (e.g. a leak in the gas line) which caused the accident.⁴⁹ Any boat lessor attempting to limit

his liability through a written agreement with a lessee should consult an attorney.

The following examples illustrate the defenses just discussed. (Again, these are examples intended only as guides to understanding these legal concepts.)

(1) Lessee is operating the boat with passengers on board. All required Coast Guard approved safety equipment, including life jackets, has been provided and is on the boat. A patch covering a hole in the boat breaks. The boat takes on water and sinks. The lessee fails to put on the readily accessible life preserver that has been provided for him. He drowns. Under the doctrine of comparative fault, both the boat owner and the lessee were negligent and any damages awarded to the lessee's family in a wrongful death action will be reduced by the degree that the lessee is found to have been negligent.

(2) Charterboat with passengers on board is being operated by the owner. While travelling on the proper side of a channel the owner observes another motorboat coming at him from a side channel at a high rate of speed. Knowing that he has the right of way, the owner continues his course. The other boat does not slow down and a collision occurs, injuring several people on the charterboat. Under the last clear chance doctrine, the owner/operator was obligated to do everything possible to avoid the collision even though he technically had the right of way. Since the owner did not attempt to avoid the collision, he could be liable for part or all of the resulting injuries.

(3) An employee of the owner is operating a charterboat with passengers on board. Employee negligently leaves a rope lying on the deck. A passenger trips over the rope, falls overboard and drowns. Under the Limitation of Liability Act, the owner's liability for the passenger's death may be limited to the value of the owner's interest in the charterboat. If the boat is worth \$10,000 and the jury awards the dead passenger's family \$100,000, the owner may be required to pay only \$10,000.

(4) Boat owner rents skiffs. The rental agreement specifically states that the lessee is responsible for providing life jackets and that he will not hold the owner liable for any injuries resulting from failure to wear a life jacket. The lessee reads and understands English well, reads the rental agreement, including the release of liability, and signs it. The boat is later swamped by a larger boat, causing the leased boat to capsize. The lessee did not bring a life jacket and drowns. The boat owner should not be liable for the lessee's death.

In addition to general maritime negligence law, the Boat Safety Act of 1971 specifically prohibits the negligent use of a motorboat: "No person may use a vessel in a negligent manner so as to endanger the life, limb or property of any person."⁵⁰ This provision does not alter the negligence principles just discussed, but it could subject negligent owner/operators to civil penalties described in the statute in addition to liability for damages

to injured parties. A civil penalty of up to \$500 may be imposed upon any person for a violation of the Boat Safety Act.

Mississippi

The rules of liability for injuries incurred in Mississippi waters are essentially the same as those applicable to injuries sustained in federal waters. There are, however, different defenses available to the negligent motorboat owner and/or operator. The Limitation of Liability Act is a federal law and is not available under Mississippi law. The Pennsylvania Rule has not been adopted by Mississippi courts. Mississippi has adopted the comparative negligence doctrine. Mississippi law also provides for the defense of "assumption of the risk". Under this principle, a person who knows that a condition inconsistent with his safety exists, yet voluntarily and deliberately exposes himself to that danger, may be barred from recovering for any injuries resulting from the unsafe condition.⁵¹ For example, a person who rents a small motorboat during severe weather, despite a warning to the contrary, may not be able to recover damages from the boat owner if the boat capsizes in rough water.

There are three Mississippi statutes relevant to an owner or operator's liability for a boating accident. The Mississippi Boating Law provides that the owner and/or operator of a boat may be held civilly liable for "damages and injuries proximately resulting from the negligent failure of the owner/operator to comply with the provisions of the Act."⁵² This is simply a statement of the general negligence principle discussed earlier. Section 59-4-83 of the Mississippi Code specifically prohibits operating a boat recklessly, negligently, faster than reasonable under the circumstances, while so physically or mentally incapacitated as to be incapable of safely operating the boat, while under the influence of drugs, or alcohol, or in a boat that is overloaded. Violation of this provision is a misdemeanor, punishable by a fine of up to \$100 and/or imprisonment of up to thirty days in the county jail.⁵³ Section 97-3-41 of the Mississippi Code provides that any person who is operating a boat for gain and who negligently or willfully overloads a boat, causing it to sink or overturn and resulting in the death of another, is guilty of manslaughter. A maximum penalty of a prison sentence of twenty years may be imposed for manslaughter.⁵⁴

Alabama

Unlike federal and Mississippi law, Alabama recognizes the defense of contributory negligence. If an injured party's negligent action contributed to the accident which caused his injuries, the injured party is totally barred from recovery. If an accident occurs in federal waters or in Mississippi waters, the injured party's recovery is simply reduced by some amount attributable to his own negligence, but he may still recover something. Consequently, it may be very important to determine whether an accident occurred in Alabama waters. Assumption of the risk is also available as a defense in Alabama, but it is more of an absolute defense than in those jurisdictions which have adopted comparative negligence.

Title 33 of the Code of Alabama establishes several statutory duties for the owner of a livery boat and for the operator and occupants.⁵⁵ Violation of these statutes or of ordinances enacted pursuant thereto may be negligence per se.⁵⁶

Alabama law imposes upon a boat owner the duty to insure that the "vessel is seaworthy and suitable for service in which it is to be employed."⁵⁷ This duty entails an obligation to ascertain the condition of the vessel by regular inspections.⁵⁸ An owner who breaches this duty may be liable for the resulting injury or damages if the breach is determined to be a proximate cause of an accident.

Code of Alabama, § 33-5-24 (1975) strictly prohibits operating a vessel in a reckless or negligent manner which is likely to endanger life, limb, or property, nor may any person operate a vessel while intoxicated or under the influence of any narcotic, drug, barbituate, or marihuana. The penalty for violating this provision is a \$500 fine and/or a six month misdemeanor conviction. On a second offense, the owner's registration is suspended for a year. A three-year suspension follows a third conviction.⁵⁹

There is a rule of Alabama law known as "negligent entrustment" which provides that "one who supplies directly or through a third person a chattel for use of another whom supplier knows or has reason to know to be likely, because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk or physical harm to himself and others who the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them."⁶⁰ Thus,

anyone who rents a boat to a person known to be incompetent or incapable of handling the boat may be liable for any injuries resulting from the lessee's negligent operation of the vessel.

Marine police officers of the Department of Conservation and Natural Resources have the power of peace officers and are responsible for administering Alabama water laws.⁶¹ The general penalty for violating a boating law or regulation which does not specify another penalty is conviction of a misdemeanor, with a fine of \$10 - \$100, plus cost, for each violation.⁶²

LIABILITY OF OWNERS AND OPERATORS
FOR INJURIES TO THIRD PARTIES

The negligence principles reviewed in the last section are equally applicable to situations involving injuries to third parties (i.e., those who are not on board the boat). A boat owner/operator is not liable for injuries to third parties unless the owner/operator breaches a duty owed to the injured party and that breach was a proximate cause of the injury or damage sustained. Remember, however, that the owner/operator may be responsible for the actions of his employees.⁶³ The following examples will illustrate:

(1) Boat owner fails to provide PFD's for the lessee. The lessee fails to yield the right of way in a channel, causing a collision that injures persons in the other boat. Since the failure to provide PFD's was not a proximate cause of the accident or injuries to the third parties, the lessor/boat owner should not be liable.

(2) Boat owner fails to provide the required night running lights on the boat. Lessee rents boat for after dark use. Another boat fails to see the leased boat due to the lack of running lights and collides with it, injuring the driver. The boat owner may be liable for the third party driver's injuries since failure to provide the required lights caused the accident.

(3) Boat owner knowingly rents a boat to a person who is intoxicated. The intoxicated lessee runs over a skier in the water. The boat owner may be liable for some of the skier's injuries since the owner owed the skier a duty to insure that operators of the boat were competent and capable.

(4) Operator/employee is operating a boat with passengers on board. He fails to yield the right of way in a channel, causing a collision that injures persons in the other boat. Under the doctrine of respondiat superior, the boat owner could be liable for the third party injuries.

(5) Operator/employee takes the boat out for a "joy ride" without the permission of the owner. He strikes and kills a water skier. Since the operator/employee is operating outside the course and scope of his employment, the boat owner should not be liable for his employee's actions. The owner may still be liable if it is proven that he could have prevented the joy ride.

Federal law imposes a special duty on a vessel operator to render, to the extent he can do so without seriously endangering his own vessel, whatever assistance he reasonably can to persons involved in a boating accident. The Boating Safety Act of 1971 provides as follows:

(a) The operator of a vessel, including one otherwise exempted by section 1453(c) of this title, involved in a collision, accident, or other casualty, to the extent he can do so without serious danger to his own vessel, or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident or casualty to save them from danger caused by the collision, accident, or casualty. He shall also give his name, address, and the identification of his vessel to any person injured and to the owner of any property damaged. The duties imposed by this subsection are in addition to any duties otherwise imposed by law.

(b) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as an ordinary, reasonable prudent man would have acted under the same or similar circumstances.⁶⁴

This statute requires boat operators to remain at the scene of the accident and render assistance if possible. Failure to do so subjects the operator to a fine of up to \$500. As long as the operator acts reasonably and in good faith, he will not be liable for any injuries resulting from his assistance.

The comparable section under the Mississippi Boating Law provides:

(1) It shall be the duty of the operator of any vessel involved in a boating accident to remain at the scene of such accident until he has rendered all necessary aid and assistance, including the carrying or the making of arrangements for the carrying of any person involved in such accident to a physician, surgeon, or hospital for medical, surgical or hospital treatment, if necessary, or if such carrying is requested by such injured person, and it is the further duty of the operator of any vessel or vessels involved in a boating accident required to be reported under this chapter to report the same as herein provided.

(2) Any person who complies with subsection (1) of this section or who gratuitously and in good faith and in the exercise of reasonable care renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act committed in good faith and in the exercise of reasonable care by such person in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as an ordinary, reasonable, prudent man would have acted under the same or similar circumstances.⁶⁵

Failure to comply with this statute subjects the operator to a fine of between \$10 and \$100.

Alabama law provides:

(a) It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.⁶⁶

LIABILITY OF BOAT OWNER FOR INJURIES TO EMPLOYEES

Federal

Federal law provides seamen with two separate remedies for injuries sustained on the job. These remedies are only available to employees who work on vessels that use federal waters. It does not matter whether the vessel is in federal or state waters when the accident occurs. If the vessel regularly use federal waters, federal law covers the employment relationship.

First, admiralty law imposes upon a boat owner a duty of providing a seaworthy vessel to his employees; i.e., the boat must be reasonably fit to perform the services for which it is designed.⁶⁷ An owner cannot delegate this duty to another and it cannot be limited by contract or negligence law.⁶⁸ An owner may exercise due care and may be unaware of a defect that renders the boat unseaworthy, but if the defect causes an injury to the employee, the owner will be liable. The injured employee must only prove that the unseaworthy condition was the proximate cause of the injury or damage. For example, if a charterboat explodes because of a hidden defect in the gas line causing an employee to be injured, the boat owner/employer will be held liable even if he had no knowledge of the defect.

The second remedy available to injured seamen is provided by the Jones Act.⁶⁹ The Jones Act provides injured seamen an action against an employer for injuries occurring during the course of the employee's employment.⁷⁰ To recover, the injured employee must prove that the boat owner/employer breached a duty owed to the employee and that the breach was a proximate cause of the injury. The Jones Act establishes the owner's duty of reasonable care for the safety of crew members.⁷¹

Assumption of the risk is not a defense to an action under the Jones Act. The comparative negligence principles are applicable.⁷² The Fellow Servant Rule, which barred recovery when a fellow employee caused the injury, has been abolished.⁷³

Mississippi & Alabama

Every state has a worker's compensation act providing cash benefits, medical care, and rehabilitation services for employees suffering

work-related injuries and diseases. Mississippi and Alabama are no exceptions.⁷⁴ To be eligible for worker compensation benefits, an employee must be injured in the course of his employment. Unlike the Jones Act, where recovery is available only if the employer negligently caused the injury, worker's compensation laws are a form of strict liability; i.e., the employer is liable regardless of fault. Mississippi law requires all private employers with five or more employees to obtain insurance to cover claims paid to injured workers. In Alabama, insurance is required for businesses employing three or more persons. Benefits are provided according to a statutory formula. The worker's compensation laws are inapplicable to "maritime employment for which a rule of liability is provided by federal law."⁷⁵ Therefore, boat owners and employees covered by the Jones Act are exempted from the provisions of the Mississippi and Alabama worker's compensation laws. As long as boats are regularly used on federal waters, a boat owner/employer is not required to obtain worker's compensation insurance for his employees.

CONCLUSION

Every year thousands of people come to the Mississippi-Alabama coast to enjoy some of the finest saltwater fishing in the world. These tourist-fishermen are often unskilled in handling boats and fishing equipment and unaware of the dangers of coastal waters. Many rely upon local fishing related businesses to provide the equipment and services they need.

Charterboat and boat leasing operators owe their customers a duty to properly maintain all equipment and to operate the equipment in a safe, appropriate manner. Federal and state rules and regulations insure that this obligation is met. Failure to comply with the rules and regulations could endanger the health and safety of all users of the coastal waters and could expose the small businesses involved to a very real risk of financial ruin.

This publication is designed to serve as a guide to understanding and appreciating some of the applicable rules and regulations. It is not a comprehensive compilation and the analyses and commentaries are simplified and abbreviated. This publication will not substitute for expert legal advice. If you have questions regarding anything discussed herein or if your business becomes involved in situations similar to those described herein, you should seek legal advice.

FOOTNOTES

1. Boat Safety Act of 1971, 46 U.S.C. §§ 1451 et. seq. (1975). Navigable water are those waters that are capable of being used in commerce. The Daniel Ball, 19 U.S. (10 Wall.) 563 (1871).
2. Boat Safety Act, supra, § 1484(b).
3. Mississippi Boating Law of 1960, MISS. CODE ANN. §§ 59-21-1 et. seq. (1972).
4. A motorboat is "any undocumented vessel propelled by machinery, whether or not such machinery is the principal source of propulsion." Id., § 59-21-3(4) (1980 Supp.). Machinery means "inboard and outboard engines and all other types of motors or mechanical devices." Id., (5).
5. For details on the numbering system, see Mississippi Boating Law, supra, §§ 59-21-7,9. Note that the number must be displayed on the bow of the boat.
6. Id., § 59-21-21 (1980 Supp.).
7. Id. The new owner keeps the number as long as the boat continues to be used in Mississippi.
8. Id., § 59-21-27 (1972).
9. Id., § 59-21-19 (1980 Supp.).
10. Id., § 59-21-13.
11. Id., § 59-21-153 (1972).
12. Code of Ala., § 33-5-9 (1975).
13. Id., § 33-5-10.
14. Id., § 33-5-35.
15. A passenger means every person on the vessel other than the owner or his representative, the operator, crew members or guests who do not contribute any consideration for their carriage. Boat Safety Act, supra, § 1452(5), 46 C.F.R. § 10.20.
16. 46 C.F.R. § 186.10-1(d).
17. Id., § 187.
18. Id., § 186.10-1.
19. Boat Safety Act, supra, 1484(b).
20. Mississippi Boating Law, supra, § 59-21-153(1972).
21. 33 C.F.R. § 173 (1980).

22. Boat Safety Act, supra, 1484(b) (1972).
23. Mississippi Boating Law, supra, § 59-21-51 (1980 Supp.).
24. Id., § 59-21-53.
25. Id., § 59-21-153 (1972).
26. Code of Ala. § 33-5-25 (1975).
27. The regulations which carry out this mandate can be found in Titles 33 and 46 of the Code of Federal Regulations. Both contain the boat safety regulations. See Chapters 155, 159 and 175 of Title 33 and Chapter 25 of Title 46 for all the safety regulations described in this section.
28. Mississippi Boat and Water Safety Commission, Mississippi Basic Better Boating (1976).
29. Motorboat Act of 1940, 46 U.S.C. § 526o (1972).
30. Boat Safety Act, supra, 1484(b).
31. MISS. CODE ANN. § 59-21-81 (1980 Supp.).

§ 59-21-81. Requirements as to lights; personal flotation devices and other safety equipment; vessels to be seaworthy.

Every vessel shall have on board a Coast Guard approved personal flotation device for each person aboard such vessel, and during the hours of darkness lights which comply with all federal regulations applicable to vessels of such classification. Such vessel shall not be operated unless in a safe and seaworthy condition; the owner and operator shall employ such safety devices as may be necessary for the safe operation of such vessel, including an efficient natural or mechanical ventilating system when necessary for safe operation. In addition to the requirements imposed by this section, all vessels shall comply with all federal regulations applicable to vessels of such classification.
32. Id., § 59-21-153 (1972).
33. Code of Ala., § 33-5-35 (1975).
34. 46 C.F.R. § 175, Table 175.05-1(a).
35. Id., § 176.
36. 46 U.S.C. § 390d (1981 Supp.).
37. Mississippi Boating Law, supra, § 59-21-153 (1972).
38. Code of Ala., § 33-5-22 (1975).
39. The Aurora, 64 F. Supp. 502 (E.D. La. 1945) (ship negligently left its proper course, crossed over the center line of the stream and collided with another boat).
40. See Kermarec v. Compagnie Generale Transatlantique, 358 U.S. 625 (1959) (visitor on board a ship berthed at a pier was injured by a fall

down a stairway). Rothman v. U-Steer-It., 247 F.2d 803 (5th Cir. 1957) (lessor liable for lessee's injuries after boat exploded). Armour v. Gradler, 448 F. Supp. 741 (Pa. 1978) (guest on private pleasure boat died when boat broke apart in rough seas).

41. See Armour v. Gradler, note 41 supra.

42. This type of presumption means that as a rule of law, the court will always draw a particular inference from a particular fact, unless and until the truth of such inference is disproved. BLACK'S LAW DICTIONARY 1349 (Rev. 4th ed. 1968).

43. The Pennsylvania, 86 U.S. 125 (1873).

44. See U.S. v. Reliable Transfer Co. Inc., 421 U.S. 397 (1975) and Pope & Talbot v. Hawk, 346 U.S. 406 (1953) for a discussion of the doctrine of comparative fault.

45. See The Cornelius Vanderbilt, 120 F.2d 766 (2nd Cir. 1941).

46. Walker v. Sabine Towing & Transp. Co. Inc., 399 F. Supp. 995 (S. D. Ala. 1975).

47. Limitation of Liability Act, 46 U.S.C. §§ 181 et. seq. (1973).

48. See Coryell v. Phipps, 317 U. S. 406 (1942). See also Armour v. Gradler, note 41 supra.

49. See Rothman v. U-Steer-It., 247 F.2d 803 (5th Cir. 1957), where an owner was not allowed to escape liability for injuries caused when a vessel with a leaking gas tank, not readily discoverable by a charterer, exploded, even though the lessee had signed a rental agreement which protected the owner from liability for any damage by reason of any defects of the boat.

50. Boat Safety Act, supra, § 1461(d) (1975).

51. Alley v. Praschak Machine Co., 366 So. 2d 661 (Miss. 1979).

52. Mississippi Boating Law, supra, § 59-21-157 (1972).

53. Id., § 59-21-153.

54. MISS. CODE ANN. § 97-3-25 (1972).

55. See text at

56. Vines v. Plantation Motor Lodge, 336 So. 2d 1338 (Ala. 1976).

57. J. H. Burton & Sons Co. v. May, 212 Ala. 435, 103 So. 46 (1925). See also Mallory S.S. Co. v. Druman, 17 Ala. App. 365, 84 So. 874 (1920) (held that "where there is a bailment for the mutual benefit of the parties, as for hire, there is imposed on the bailor [owner], in the absence of a special contract of representation, an obligation that the thing or property

bailed for use shall be reasonably fit for the purpose, or capable of the use, known to the intended") and Higman v. Camody, 112 Ala. 267, 20 So. 480 (1896) (held that "the continued use of the barge by the bailee after knowledge of its defective condition was negligence, rendering him liable for resulting damages").

58. Aircraft Sales and Service v. Gantt, 255 Ala. 508, 52 So. 2d 388 (1951). The court further held that the owner carried an "obligation imposed by law to refrain from acts of omission or commission which he may reasonably expect will result in injury to the bailee or to others".

59. Code of Ala., § 33-5-24 (1975).

60. Keller v. Kiendinger, 389 So. 2d 129 (Ala. 1980).

61. Code of Ala., § 33-5-2 (1975).

62. Code of Ala., § 33-5-35 (1975).

63. See text at

64. Boat Safety Act, supra, § 1465 (1975).

65. Mississippi Boating Law, supra, § 59-21-55. (1980 Supp.)

66. Code of Ala., § 33-5-25 (1975).

67. The Southwark, 191 U.S. 1 (1903).

68. Sea Shipping Co. v. Seiracki, 328 U.S. 85 (1945).

69. The Jones Act, 46 U.S.C. § 688 (1975).

70. See, States S.S. Co. v. Berglann, 41 F.2d 456 (9th Cir. 1930) (test - the performance of those ordinary tasks for his own comfort and convenience that are incident to and necessarily connected with his employment, in addition to the duties required in the service of the ship).

71. Roberts v. United Fisheries Vessels Inc., 141 F.2d 288 (1st Cir. 1944). The degree of caution and prudence required in a particular situation is measured by the undertaking and the specific dangers involved. Id.

72. See text at

73. Johnson v. U.S., 333 U.S. 46 (1948).

74. MISS. CODE ANN. §§ 71-3-1 et. seq. (1972); Code of Ala., §§ 25-5-1 et seq. (1975).

75. MISS. CODE ANN. § 71-3-5.

APPENDIX A

75789c

STATE OF MISSISSIPPI
DEPARTMENT OF WILDLIFE CONSERVATION
2250 Hwy 90N, Elm Grove, Jackson, MS 39204
MOTOR BOAT REGISTRATION APPLICATION

Registration Fee \$2.00
Harboring Fee \$5.00
Total \$7.00

PRESENT NO. ON BOAT

ORIGINAL
TRANSFER
DUPLICATE

75789 c

DETACH AND KEEP WITH
VESSEL UNTIL CERTIFICATE
OF NUMBER IS RECEIVED

NAME _____
ADDRESS _____
CITY _____
STATE _____
ZIP _____
MAKE OF BOAT _____
VIN or SERIAL NO _____
I HEREBY CERTIFY THAT ON _____
Mo Day Yr _____

MADE APPLICATION FOR
CERTIFICATE OF NUMBER FOR
ABOVE DESCRIBED BOAT
Signature of Owner _____

Valid for 60 days from date of issue. Carry
on board when the vessel is being operated

MI DO NOT FILL IN

1. BOAT OWNER'S NAME _____
(Print or Type) _____
2. ADDRESS _____
Street _____ City _____ State _____ Zip _____
County Where Boat is kept _____
3. DATE OF BIRTH _____ MONTH _____ DAY _____ YEAR _____
CITIZENSHIP OF OWNER _____

4. IF TRANSFER, GIVE PREVIOUS OWNER _____
Name _____ State _____ Zip _____
Address _____ City _____ State _____ Zip _____

DESCRIPTION OF BOAT

5. Boat built before November 1972, give Serial Number _____
Boats built after November 1972, must give VIN Number _____
Example on Back _____
HULL MATERIAL _____
(Check One) Fiberglass _____ Aluminum _____ Wood _____ Steel _____ Other _____
6. LENGTH OF BOAT _____ MAKE OF BOAT _____ YEAR BOAT BUILT _____
7. STATEMENT AS TO USE _____
(Check One) Pleasure _____ Livestock _____ Commercial _____ Other _____
8. TYPE OF PROPULSION _____
(Check One) Outboard _____ Inboard _____ Outboard and Inboard _____
9. TYPE OF FUEL _____ Gas _____ Diesel _____ Other _____
10. TRAILER SERIAL NUMBER _____
11. See Other Side for Instructions And How To Register Your Motor

Signature Certificate Ownership _____
Date _____

APPENDIX A

\$24.00
 .50 Issue Fee
 \$24.50

Emblem No.

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES Alabama Boat Registration Certificate 1981

Boat Registration No. & Suffix

AL- 6583 -SA

Class IV—40 Feet or Over in Length
 Expires 30 Sept. 1981 — Delinquent 15 Nov. 1981

Name of Owner (Last)										(First)										(Middle Initial)																			
Address (St. or RFD)																				(Post Office)										(State)					(Zip Code)				
Make of Boat										Hull Serial Number										Year Built					Length/Feet														
F/Glass F <input type="checkbox"/>		Alum. A <input type="checkbox"/>		Wood W <input type="checkbox"/>		Steel S <input type="checkbox"/>		Other X <input type="checkbox"/>		Outboard O <input type="checkbox"/>		IB/OB B <input type="checkbox"/>		Inboard I <input type="checkbox"/>		Sail S <input type="checkbox"/>		Sail/Motor M <input type="checkbox"/>		Other X <input type="checkbox"/>																			
Gas G <input type="checkbox"/>		Diesel D <input type="checkbox"/>		Other X <input type="checkbox"/>		Open O <input type="checkbox"/>		Cabin C <input type="checkbox"/>		House H <input type="checkbox"/>		Other X <input type="checkbox"/>		Pleasure P <input type="checkbox"/>		Commercial Fishing F <input type="checkbox"/>		Commercial Passenger C <input type="checkbox"/>		Other X <input type="checkbox"/>																			
Frequently (25 or More Trips per Year) <input type="checkbox"/>										Occasionally (Less Than 25 Trips Per Year) <input type="checkbox"/>										Never <input type="checkbox"/>																			
How Often Do You Fish in the Gulf of Mexico including Bays and Lagoons? (Check One)										How Often Do You Fish Outside the State's Territorial Waters in the Gulf of Mexico (Beyond 3 Miles)										Never <input type="checkbox"/>																			
DATE										COUNTY OF REGISTRATION										ADDRESS CHANGED?																			
(Mo.) (Day) (Yr.)																				<input type="checkbox"/> Yes <input type="checkbox"/> No																			
ISSUING OFFICER										THIS CERTIFICATE REQUIRED FOR RE-REGISTRATION																													

THIS CERTIFICATE MUST BE ON BOARD VESSEL AT ALL TIMES WHEN IN OPERATION

APPENDIX B

CHAPTER 6 - OFFICERS AND OPERATORS LICENSE, SPECIFIC INFORMATION

Motorboat Operator

REFERENCE: 46 CFR 10.20 (CG-191). Part 50-12, Marine Safety Manual.

LICENSE REQUIREMENTS: 1. Limited to six or less passengers for hire.

2. No tonnage limitations on motorboats of 65 feet or less in length. However, service on vessels of more than 65 feet tonnage is limited to 15 gross tons or less. License also covers auxiliary sail vessels carrying six or less passengers within the length and tonnage restrictions previously mentioned.

3. Route will be limited to the waters upon which qualifying experience was gained.

MINIMUM AGE: 18

CITIZENSHIP: U.S. Citizenship not required, but must be able to read, speak, and understand the English language as found in Rules of the Road, publications, and emergency instructions.

PAPERWORK REQUIREMENTS: 1. License and renewal application (Form CG-866).

2. Letter of service.

3. Physical examination on Form CG-954.

4. Fingerprints for original license (see License, General section).

SERVICE REQUIREMENTS: 1. 360 days experience in the operation of motorboats, OR

2. Able Seaman (3 year unlimited) with 3 months experience operating motorboats, OR

3. Armed Forces personnel who can document service operating small craft shall credit towards the 360 days.

4. Service must be on vessels of limited size, i.e., yachts, fishing vessels, tugs, etc.

5. All service must be actual days on the vessel, not time ashore.

6. 25% of required experience must be within three years prior to application, except for service in the Armed Forces .

7. Three months experience in the Gulf of Mexico is required for a Gulf of Mexico endorsement.

PHYSICAL REQUIREMENTS

1. May be examined by U.S.P.H.S. or other competent physician and the results recorded on Form CG-954.

2. Vision: At least 20/100 in each eye uncorrected and must be corrected to 20/20 in one eye and 20/40 in the other. Color vision must be normal by the pseudo-isochromatic plate test, or the "Williams" or "Farnsworth" lantern test. Color-blind persons may be issued a license for "daylight-only operation", if found otherwise qualified by the OCMI.

SCOPE OF EXAMINATION:

1. Rules of the Road governing the waters normally operated upon.

2. Required lifesaving and firefighting equipment and its use.

3. Machinery operations.

4. First Aid.

5. Coast Guard rules and regulations for motorboats on the waters applied for.

6. Emergency and distress signals.

7. Aids to navigation and charts.

8. Applicants may be examined orally.

POSSIBLE ENDORSEMENTS:

1. Inland waters of the United States (not including)(including) those waters governed solely by the International Regulations for the Prevention of Collisions at Sea, 1972; (also including Western Rivers)(not including Western Rivers).

2. Upon Western Rivers.

3. Gulf of Mexico not more than 100 miles offshore between St. Marks, FL and Brownsville, TX.

NOTE: It is the policy of the Eighth Coast Guard District Commander to issue the largest geographic route possible commensurate with applicant's experience. An OCMI may restrict a geographic route as appropriate.

* Although the regulations in 10.02-5(g) for recency of service do not specifically address Motorboat Operators' Licenses, in the interest of marine safety and to conform to the requirements for other licenses in 46 CFR Subchapter B, it is the policy of the Eighth District Commander to require the recency of service. See 46 CFR 10.20-3(a)(1).

EXAMINATION CONTENTS AND REQUIRED SCORES:

<u>SUBJECT</u>	<u>NO. QUESTIONS</u>	<u>SCORE</u>
Rules of the Road - Inland	20	Aggregate
Rules of the Road - International	20	90%
Rules of the Road - Great Lakes	20	
Rules of the Road - Western Rivers	20	
(Applicant takes one or more as needed to cover waters of normal operation.)		
<u>PART I</u>		
Section I - Navigation - General	20	70%
Section II - General	20	70%
<u>PART II</u>		
Section III- Safety	30	70%

PART III

Locally prepared plotting problems and Local Knowledge (Coast Pilot and Light List) examinations shall be administered to obtain the Gulf of Mexico St. Marks, FL to Brownsville, TX endorsement.

SPECIAL EXAMINATION

Candidates applying through the New Orleans Coast Guard office can take a special examination, which can be administered orally. Applicants taking the special exam will be limited to mineral and oil vessels only.

Ocean Operator

- REFERENCE:** 46 CFR 187.25. Part 50-II, Marine Safety Manual.
- LICENSE REQUIREMENTS:**
1. Sometimes referred to as "crewboat" or 100 ton license.
 2. Tonnage endorsement will be "50 tons" or "100 tons" as determined by the same mathematical formula for Inland Operator.
 3. Routes will be limited between St. Marks, FL to Brownsville, TX not more than 100 miles offshore. Routes in the Gulf of Mexico may be extended up to 200 miles offshore on mineral and oil vessels if the license holder has a LORAN certificate or completes the Coast Guard LORAN exam.
 4. Maximum number of passengers for hire that may be carried is limited by the vessel's Certificate of Inspection.
 5. May also operate on all Inland waters, including the Great Lakes, and Western Rivers.
- MINIMUM AGE:** 19
- CITIZENSHIP:** Must show proof of U.S. citizenship.
- PAPERWORK REQUIREMENTS:**
1. License and renewal application (Form CG-866).
 2. Letter of service.
 3. Physical examination on Form CG-954.
 4. Proof of citizenship.
 5. Fingerprint card for original license.
- SERVICE REQUIREMENTS:**
1. 360 days service on ocean or coastwise waters while holding a Motorboat Operator's license, OR
 2. 720 days service on motorboats or small motor vessels on ocean or coastwise route; OR 480 "twelve-hour" days if a condition of employment.
 3. For operators of auxiliary sailing vessels, 1½ years service on ocean or coastwise motorboats and two years service in coastwise sailing or auxiliary sailing vessels. Additional methods of

qualifying are described in 46 CFR 187.25-10 and 11.

4. To raise from 50 to 100 tons, one month's service is required on a vessel 35 tons or more.

5. 25% of required experience must be within the past three years (except for military service, see 46 CFR 187.25-1).

6. When an applicant who holds an Operator's License limited to a route outside the Eighth District, he must present 90 day's service within our geographical limits and take the Coast Pilot Local Knowledge and Light List exercise.

PHYSICAL REQUIREMENTS:

1. May be examined by U.S.P.H.S. or other competent physician and the results recorded on Form CC-954.

2. Vision: At least 20/100 in each eye uncorrected and must be corrected to 20/20 in one eye and 20/40 in the other. Color vision must be normal by the pseudo-isochromatic plate test or "Williams" lantern test (or equivalent). Color-blind persons may be issued an original license for "daylight-only" operation as determined by the COMDT.

SCOPE OF EXAMINATION:

1. Rules of the Road governing the waters applied for.

2. Rules/Regulations.

3. Firefighting and Firefighting equipment.

4. Machinery operations.

5. Aids to Navigations, Variation and Deviation, Navigation, charts.

6. First Aid.

7. Pollution Prevention.

8. Lifesaving Equipment.

9. Plotting Problem.

10. LORAN (see note below).

POSSIBLE ENDORSEMENTS

1. Upon the Gulf of Mexico not more than 100 miles offshore between St. Marks, FL and Brownsville, TX.

2. Upon the Gulf of Mexico not more than 200 miles offshore, between St. Marks, FL and Brownsville, TX; when beyond 100 miles offshore, service is restricted to vessels with LORAN equipment while engaged in the Mineral and Oil industry.

STANDARD EXAMINATION CONTENTS AND REQUIRED SCORES:

<u>SUBJECT</u>	<u>NO. QUESTIONS</u>	<u>SCORE</u>
Rules of the Road - International	20	Aggregate
Rules of the Road - Inland	20	70%
PART I		
Section I Navigation - General	20	70%
Section II - General	20	70%
PART II		
Section I Safety	30	70%
Section II Rules/Regulations	10	90%
Plotting Problem (locally prepared)	Variable	70%
NOTE: LORAN (for extension to 200 miles offshore in mineral & oil industry)	10-20	70%

Students may elect to attend a LORAN school administered by the Maritime Administration, in lieu of taking the CG LORAN exam. Presentation of the MARAD LORAN Certificate to the Coast Guard will suffice for an extension of route.

PART III

Local knowledge (Coast Pilot and Light List) examinations shall be administered to obtain the Gulf of Mexico St. Marks, FL to Brownsville, TX endorsement.

* NOTE: It is the policy of the Eighth Coast Guard District Commander to issue the largest route possible commensurate with the applicant's experience. An OCMI may restrict a geographic route as appropriate.

SPECIAL EXAMINATION

Candidates applying through the New Orleans Coast Guard Marine Inspection office can take a special examination, which can be administered orally. Applicants taking the special exam will be limited to mineral and oil vessels only.

APPENDIX C

Casualty or accident report - Federal

Each report required by § 173.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

- (a) The numbers and names of each vessel involved.
- (b) The name and address of each owner of each vessel involved.
- (c) The name of the nearest city or town, the county, the State, and the body of water.
- (d) The time and date the casualty or accident occurred.
- (e) The location on the water.
- (f) The visibility, weather, and water conditions.
- (g) The estimated air and water temperatures.
- (h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.
- (i) The name and address of each operator of each vessel involved.
- (j) The number of persons on board or towed on skis by each vessel.
- (k) The name, address, and date of birth of each person injured or killed.
- (l) The cause of each death.
- (m) Weather forecasts available to and weather reports used by, the operator before and during the use of the vessel.
- (n) The name and address of each owner of property involved.
- (o) The availability and use of personal flotation devices.
- (p) The type and amount of each fire extinguisher used.
- (q) The nature and extent of each injury.
- (r) A description of all property damage and vessel damage with an estimate of the cost of the casualty.
- (s) A description of each equipment failure that caused or contributed to the cause of the casualty.
- (t) A description of the vessel casualty or accident.
- (u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).
- (v) The opinion of the person making the report as to the cause of the casualty.
- (w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.
- (x) The name, address, and telephone number of each witness.
- (y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.
- (z) The name, address, and telephone number of the person submitting the report.

WS-42 Rev. 7-73	BOATING ACCIDENT REPORT		DEPARTMENT OF CON- SERVATION & NATURAL RESOURCES Water Safety Division	
The operator of every vessel is required to file a report in writing whenever a boating accident results in loss of life, loss of consciousness, medical treatment, or disability in excess of 24 hours or property damage in excess of \$100. Reports in death and injury cases must be submitted within 48 hours; reports in other cases are required within 5 days. Reports shall be submitted to the Department of Conservation and Natural Resources, Water Safety Division, Administrative Building, Montgomery, Alabama 36104.				
COMPLETE ALL BLOCKS (Indicate those not applicable by "NA")				
NAME AND ADDRESS OF OPERATOR		AGE	OPERATOR'S EXPERIENCE THIS TYPE OF BOAT OTHER BOAT OPERATING EXP. <input type="checkbox"/> UNDER 20 HOURS <input type="checkbox"/> UNDER 20 HOURS <input type="checkbox"/> 20 TO 100 HOURS <input type="checkbox"/> 20 TO 100 HOURS <input type="checkbox"/> 100 TO 500 HOURS <input type="checkbox"/> 100 TO 500 HOURS <input type="checkbox"/> OVER 500 HOURS <input type="checkbox"/> OVER 500 HOURS	
NAME AND ADDRESS OF OWNER		RENTED BOAT <input type="checkbox"/> YES <input type="checkbox"/> NO	NO. OF PERSONS ON BOARD	FORMAL INSTRUCTIONS IN BOATING SAFETY <input type="checkbox"/> NONE <input type="checkbox"/> STATE <input type="checkbox"/> USCG AUXILIARY <input type="checkbox"/> OTHER (Indicate) <input type="checkbox"/> U.S. POWER SQUADRON <input type="checkbox"/> AMERICAN RED CROSS
VESSEL NO. 1				
BOAT NUMBER	BOAT NAME	BOAT MAKE	BOAT MODEL	UPR HULL IDENTIFICATION NO.
TYPE OF BOAT <input type="checkbox"/> OPEN MOTORBOAT <input type="checkbox"/> CABIN MOTORBOAT <input type="checkbox"/> AUXILIARY SAIL <input type="checkbox"/> SAIL ONLY <input type="checkbox"/> POWERBOAT <input type="checkbox"/> OTHER (Specify)	HULL MATERIAL <input type="checkbox"/> WOOD <input type="checkbox"/> ALUMINUM <input type="checkbox"/> STEEL <input type="checkbox"/> FIBERGLASS (Plastic) <input type="checkbox"/> OTHER (Specify)	ENGINE <input type="checkbox"/> OUTBOARD <input type="checkbox"/> INBOARD GASOLINE <input type="checkbox"/> INBOARD DIESEL <input type="checkbox"/> INBOARD-OUTDRIVE <input type="checkbox"/> OTHER (Specify)	BOAT DATA (Propulsion) NO. OF ENGINES _____ MAKE OF ENGINE _____ HORSEPOWER (Total) _____ YEAR BUILT (Engine) _____	BOAT DATA (Construction) LENGTH _____ WIDTH BEAM _____ DEPTH (Inner Transom To Keel) _____ YEAR BUILT (Boat) _____
ACCIDENT DATA				
DATE OF ACCIDENT	TIME _____ AM _____ PM	NAME OF BODY OF WATER		LOCATION (Give location precisely)
STATE	NEAREST CITY OR TOWN		COUNTY	
WEATHER <input type="checkbox"/> CLEAR <input type="checkbox"/> RAIN <input type="checkbox"/> CLOUDY <input type="checkbox"/> SNOW <input type="checkbox"/> FOG <input type="checkbox"/> HAZY	WATER CONDITIONS <input type="checkbox"/> CALM <input type="checkbox"/> CHOPPY <input type="checkbox"/> ROUGH <input type="checkbox"/> VERY ROUGH <input type="checkbox"/> STRONG CURRENT	TEMPERATURES (Estimate) AIR _____ °F WATER _____ °F	WIND <input type="checkbox"/> NONE <input type="checkbox"/> LIGHT (0-6 MPH) <input type="checkbox"/> MODERATE (7-14 MPH) <input type="checkbox"/> STRONG (15-25 MPH) <input type="checkbox"/> STORM (Over 25 MPH)	VISIBILITY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR
OPERATION AT TIME OF ACCIDENT (Check all applicable) <input type="checkbox"/> CRUISING <input type="checkbox"/> AT ANCHOR <input type="checkbox"/> APPROACHING DOCK <input type="checkbox"/> TIED TO DOCK <input type="checkbox"/> WATER SKIING <input type="checkbox"/> FUELING <input type="checkbox"/> RACING <input type="checkbox"/> FISHING <input type="checkbox"/> TOWING <input type="checkbox"/> HUNTING <input type="checkbox"/> BEING TOWED <input type="checkbox"/> SKIN DIVING OR SWIMMING <input type="checkbox"/> DRIFTING <input type="checkbox"/> OTHER (Specify)		TYPE OF ACCIDENT <input type="checkbox"/> GROUNDING <input type="checkbox"/> COLLISION WITH FIXED OBJECT <input type="checkbox"/> CAPSIZING <input type="checkbox"/> COLLISION WITH FLOATING OBJECT <input type="checkbox"/> FLOODING <input type="checkbox"/> FALLS OVERBOARD <input type="checkbox"/> SINKING <input type="checkbox"/> FALLS IN BOAT <input type="checkbox"/> FIRE OR EXPLOSION (Fuel) <input type="checkbox"/> BURNS <input type="checkbox"/> FIRE OR EXPLOSION (Other than Fuel) <input type="checkbox"/> HIT BY BOAT OR PROPELLER <input type="checkbox"/> COLLISION WITH VESSEL <input type="checkbox"/> OTHER (Specify)		WHAT, IN YOUR OPINION, CAUSED THE ACCIDENT? <input type="checkbox"/> WEATHER CONDITIONS <input type="checkbox"/> EXCESSIVE SPEED <input type="checkbox"/> NO PROPER LOOKOUT <input type="checkbox"/> OVERLOADING <input type="checkbox"/> IMPROPER LOADING <input type="checkbox"/> HAZARDOUS WATERS <input type="checkbox"/> FAULT OF OTHER PERSON <input type="checkbox"/> FAULT OF HULL <input type="checkbox"/> FAULT OF MACHINERY <input type="checkbox"/> FAULT OF EQUIPMENT <input type="checkbox"/> OTHER (Specify)
PERSONAL FLOTATION DEVICES		FIRE EXTINGUISHERS		
WAS THE BOAT ADEQUATELY EQUIPPED WITH CG APPROVED LIFESAVING DEVICES? <input type="checkbox"/> YES <input type="checkbox"/> NO		WAS THE VESSEL CARRYING NON-APPROVED LIFESAVING DEVICES? <input type="checkbox"/> YES <input type="checkbox"/> NO		
WERE THEY ACCESSIBLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		WERE THEY USED - (If yes, list type(s) and number used.) <input type="checkbox"/> YES _____ <input type="checkbox"/> NO _____		
WERE THEY USED? <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> NOT APPLICABLE		
PROPERTY DAMAGE (Est.) THIS BOAT \$ _____ OTHER BOAT \$ _____ OTHER PROPERTY \$ _____	DESCRIBE PROPERTY DAMAGE			
NAME AND ADDRESS OF OWNER (Damaged Property)				

MISSISSIPPI

COMPLETE ALL BLOCKS (Indicate those not applicable by "NA")				
DECEASED				
NAME	ADDRESS	DATE OF BIRTH	WAS VICTIM: <input type="checkbox"/> SWIMMER <input type="checkbox"/> NON-SWIMMER	DEATH CAUSED BY: <input type="checkbox"/> DROWNING <input type="checkbox"/> DISAPPEARANCE <input type="checkbox"/> OTHER
NAME	ADDRESS	DATE OF BIRTH	WAS VICTIM: <input type="checkbox"/> SWIMMER <input type="checkbox"/> NON-SWIMMER	DEATH CAUSED BY: <input type="checkbox"/> DROWNING <input type="checkbox"/> DISAPPEARANCE <input type="checkbox"/> OTHER
NAME	ADDRESS	DATE OF BIRTH	WAS VICTIM: <input type="checkbox"/> SWIMMER <input type="checkbox"/> NON-SWIMMER	DEATH CAUSED BY: <input type="checkbox"/> DROWNING <input type="checkbox"/> DISAPPEARANCE <input type="checkbox"/> OTHER
INJURED				
NAME	ADDRESS	DATE OF BIRTH	NATURE OF INJURY	INCAPACITATED OVER 24 HOURS <input type="checkbox"/> YES <input type="checkbox"/> NO
NAME	ADDRESS	DATE OF BIRTH	NATURE OF INJURY	INCAPACITATED OVER 24 HOURS <input type="checkbox"/> YES <input type="checkbox"/> NO
NAME	ADDRESS	DATE OF BIRTH	NATURE OF INJURY	INCAPACITATED OVER 24 HOURS <input type="checkbox"/> YES <input type="checkbox"/> NO
ACCIDENT DESCRIPTION				
DESCRIBE WHAT HAPPENED (Include Failure of Equipment, if diagram is needed attach separately)				
VESSEL NO. 2				
NAME OF OPERATOR	ADDRESS		BOAT NUMBER	
TELEPHONE NUMBER			BOAT NAME	
NAME OF OWNER	ADDRESS			
WITNESSES				
NAME	ADDRESS		TELEPHONE NUMBER	
NAME	ADDRESS		TELEPHONE NUMBER	
NAME	ADDRESS		TELEPHONE NUMBER	
SIGNATURE OF PERSON COMPLETING REPORT		ADDRESS		DATE SUBMITTED
QUALIFICATION (Check one) <input type="checkbox"/> OPERATOR <input type="checkbox"/> OWNER <input type="checkbox"/> INVESTIGATOR <input type="checkbox"/> OTHER				TELEPHONE
(do not use) - FOR REPORTING AUTHORITY REVIEW (use agency date stamp)				
NAME OF REVIEWING OFFICE	DATE RECEIVED		CAUSES BASED ON (Check one) <input type="checkbox"/> THIS REPORT <input type="checkbox"/> INVESTIGATION AND THIS REPORT <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> COULD NOT BE DETERMINED	
PRIMARY CAUSE OF ACCIDENT			REVIEWED BY	
SECONDARY CAUSE OF ACCIDENT				